

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:)
)
PETITION OF LESLIE WILLIS)
TO PERPETUATE EVIDENCE)
PERTAINING TO "THE TRUST FOR) 2:20-cv-1833
ANNIE PEARL (WHITE) WILLIS") **Electronic Filing**
)

MEMORANDUM ORDER

November 15, 2023

Petitioner, Leslie Willis ("Willis" or "Petitioner"), has filed a "Rule 60(b)(6)" Motion (ECF No. 212) to the Orders of Magistrate Judge Lisa Pupo Lenihan (ECF No. 209, 210) dated October 12, 2023, granting in part and denying in part Willis' Motion for Clarification (ECF No. 207). Petitioner raises an "objection" to the rulings because the Magistrate Judge did not address petitioner's specific questions regarding this court's Memorandum Order (Doc. No. 178). This court will consider Petitioner's Motion/objections as an appeal from the Magistrate Judge's Orders pursuant to the Magistrate Judges Act (the "Act"), 28 U. S. C. § 636(b)(1).

A United States Magistrate Judge may hear and determine any [non-dispositive] pretrial matter pending before the Court pursuant to 28 U.S.C. § 636(b)(1)(A). The district court will only reverse a magistrate judge's decision on these matters if it is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A) ("A judge of the court may reconsider any [non-dispositive] pretrial matter . . . where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law."); FED. R. CIV. P. 72 (a). Therefore, "this Court will review a magistrate judge's findings of fact for clear error." *Haines v. Liggett Group, Inc.*, 975 F.2d 81, 91-92 (3d Cir. 1992); *see also Lithuanian Commerce Corp., Ltd. v. Sara Lee Hosiery*, 177 F.R.D. 205, 213 (D.N.J.1997). A finding is clearly erroneous if "the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948); *see also Kounelis v. Sherrer*, 529 F. Supp. 2d 503, 518

(D.N.J. 2008); *Lo Bosco v. Kure Engineering Ltd.*, 891 F. Supp. 1035, 1037 (D.N.J. 1995). The district court will not reverse the magistrate judge's determination, even in circumstances where the court might have decided the matter differently. *Cooley v. Merski*, 2008 U.S. Dist. LEXIS 50271, *3 (W.D. Pa. June 26, 2008) (citing *Cardona v. General Motors Corp.*, 942 F. Supp. 968, 971 (D.N.J. 1996)).

In matters where the magistrate judge is authorized to exercise his or her discretion, the decision will be reversed only for an abuse of discretion. *See, e.g., Kresefky v. Panasonic Commc'ns & Sys. Co.*, 169 F.R.D. 54, 64 (D.N.J. 1996) ("Where, as here, the magistrate has ruled on a non-dispositive matter . . . , his or her ruling is entitled to great deference and is reversible only for abuse of discretion"). "This deferential standard is 'especially appropriate where the Magistrate Judge has managed this case from the outset and developed a thorough knowledge of the proceedings.'" *Lithuanian Commerce Corp., Ltd. v. Sara Lee Hosiery*, 177 F.R.D. at 214 (quoting *Pub. Interest Research Group v. Hercules, Inc.*, 830 F. Supp. 1525, 1547 (D.N.J. 1993), aff'd on other grounds and rev'd on other grounds, 50 F.3d 1239 (3d Cir.1995)).

After a review of Willis' Motion/objection and the Orders of Magistrate Judge Lisa Pupo Lenihan denying petitioner's motion for clarification, this Court is unable to find either an abuse of discretion by the Magistrate Judge, or that the Magistrate Judge's ruling was clearly erroneous or contrary to law. Accordingly,

IT IS HEREBY ORDERED that after consideration of Willis' Motion/Objections to/Appeal of Magistrate Judge Lenihan's Orders dated October 12, 2023, [212] the Motion is denied and the Objections/Appeal are overruled/denied. The October 12, 2023, Orders of

Magistrate Judge Lenihan are **AFFIRMED**.

s/DAVID STEWART CERCONE
David Stewart Cercone
Senior United States District Judge

cc: Leslie Willis
Bridget J. Daley, Esquire

(Via CM/ECF Electronic Mail)